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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/904,163	07/11/2001	Edwin Fontecha	3737220001822	2525

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CONNELLY CUSHWA, MICHELLE R

[REDACTED] ARF UNIT [REDACTED] PAPER NUMBER

2874

DATE MAILED: 05/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/904,163	FONTECHA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Michelle R. Connelly-Cushwa	2874	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-39 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-8,10,11,15,16,19,22-29,32,33 and 37-39 is/are rejected.
- 7) Claim(s) 9,12-14,17,18,20,21,30,31 and 34-36 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 09 January 2002 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.
 

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All
  - b) Some \*
  - c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Information Disclosure Statement***

The prior art documents submitted by applicant in the Information Disclosure Statement filed on January 9, 2002 have all been considered and made of record (note the attached copy of form PTO-1449).

### ***Drawings***

Ten (10) sheets of formal drawings were filed on August 24, 2001 and have been accepted by the Examiner.

### ***Specification***

Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000.

Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

**Claims 1-8, 10, 11, 15, 16, 19, 22-29, 32, 33 and 37-39 are rejected under 35 U.S.C. 102(e) as being anticipated by Buckelew et al. (US 6,498,882 B1).**

The applied reference has a common assignee with the instant application.

Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Regarding claims 1-4, 10, 19, 22-27 and 37-39; in Figures 6A-6E, Buckelew et al. discloses an optical package (100) having a length of optical fibers (110) connected to the package, comprising:

- an enclosure having at least one optical component (102) disposed therein, the component defining a plane and being optically coupled to the length of optical fibers (110);
- an opening including a feedthrough (124) defined by at least one wall of the enclosure; and
- supports (118, 126, 127, 128) attached to the enclosure and configured to support the segment of the length (see column 9, lines 15-18 and lines 54-59);

- wherein a segment of the length of optical fibers (110) is disposed within the feedthrough (124) such that a plane defined by the segment is angled relative to the plane defined by the component (102);
- wherein the package (100) includes a mounting base, upon which the optical component (102) is mounted, the mounting base defining a plane such that the plane defined by the segment is perpendicular to the plane defined by the mounting base;
- wherein the plane defined by the segment is perpendicular to the plane defined by the component (102);
- wherein the segment of the length of optical fibers is disposed within the opening such that a non-bending length of the optical fibers exterior to the opening may be minimized; and
- wherein the length of optical fibers comprises a ribbon of optical fibers that has a cross-section selected from the group consisting of ovals, ellipses and rectangles.

Regarding claims 5-8; the supports (126, 127) disclosed in Figure 6D are clamps, wherein the support (126) has a face that includes a flat or curved surface and that is parallel to the segment of the length of optical fibers (110), wherein the support (127) has a face that includes a flat or curved surface and that is parallel to the segment of the length of optical fibers (110), wherein the support (127) comprises a compliant material, and wherein the support (127) may be a rubber silicone insert (see column 9, lines 38-59).

Regarding claims 11, 15 and 28; the feedthrough (124) includes a sealant (hermetic seal, 129) disposed within the gap defined by the opening and the length of optical fibers, wherein the hermetic seal may be metallic, thus, the feedthrough may comprise a metal (see column 9, lines 60-67).

Regarding claims 16, 29, 32 and 33; the sealant (129) may be epoxy (see column 9, lines 60-67). Epoxy is an adhesive that requires curing to adhere.

***Allowable Subject Matter***

**Claims 9, 12-14, 17, 18, 20, 21, 30, 31 and 34-36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.**

The following is a statement of reasons for the indication of allowable subject matter: The prior art cited on attached form PTO-892 is the most relevant prior art known, however, the invention of claims 9, 12-14, 17, 18, 20, 21, 30, 31 and 34-36 distinguishes over the prior art of record for the following reasons.

Regarding claim 9; the claim is allowable over the prior art of record because none of the references either alone or in combination disclose or render obvious a package as defined in claim 9, wherein the compliant material comprises a thickness of about 0.030 inches in combination with the other limitations.

Regarding claims 12-14; the claims are allowable over the prior art of record because none of the references either alone or in combination disclose or render obvious a package as defined in claim 12, further comprising a protective boot disposed

over the feedthrough in combination with the other limitations. Claims 13 and 14 depend from claim 12.

Regarding claims 17 and 18; the claims are allowable over the prior art of record because none of the references either alone or in combination disclose or render obvious a package as defined in claim 17, further comprising a plate disposed within the opening and upon which the segment of the length is attached in combination with the other limitations. Claim 18 depends from claim 17.

Regarding claim 20; the claim is allowable over the prior art of record because none of the references either alone or in combination disclose or render obvious a package as defined in claim 20, wherein a bending radius of the length of optical fibers exterior to the opening is about 1.0 inches in combination with the other limitations.

Regarding claim 21; the claim is allowable over the prior art of record because none of the references either alone or in combination disclose or render obvious a package as defined in claim 21, wherein a bending radius of the length of optical fibers exterior to the opening is about 0.1 inches in combination with the other limitations.

Regarding claims 30 and 31; the claims are allowable over the prior art of record because none of the references either alone or in combination disclose or render obvious a method as defined in claim 30, further comprising attaching the segment of the length to a reinforcement plate prior to routing the length of optical fibers through the opening in combination with the other limitations. Claim 31 depends from claim 30.

Regarding claims 34-36; the claims are allowable over the prior art of record because none of the references either alone or in combination disclose or render

obvious a method as defined in claim 34, further comprising bending a portion of the length of optical fibers exterior to the opening such that the portion of the length between the bent portion and the opening is minimized in combination with the other limitations. Claims 35 and 36 depend from claim 34.

Hence, there is not reason or motivation for one of ordinary skill in the art to use the prior art of record to make the invention of claims 9, 12-14, 17, 18, 20, 21, 30, 31 and 34-36.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Arsenault et al. (US 6,459,842 B1) discloses a packaging system for two-dimensional optoelectronic arrays (see Figures 1, 2, 5A and 5B); and Kadar-Kallen et al. (US 2002/0126962 A1) discloses a waveguide for connection to at least one device (see Figure 16).

Any inquiry concerning the merits of this communication should be directed to Examiner Michelle R. Connelly-Cushwa at telephone number (703) 305-5327. Any inquiry of a general or clerical nature (i.e. a request for a missing form or paper, etc.) should be directed to the Technology Center 2800 receptionist at telephone number (703) 308-0956 or to the technical support staff supervisor at telephone number (703) 308-3072.

Michelle R. Connelly-Cushwa  
**MRCC**  
April 7, 2003

  
AKM ENAYET ULLAH  
PRIMARY EXAMINER